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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/618,689

07/09/2003

Robert L. Doubler

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FAEGRE & BENSON
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EXAMINER

REESE, DAVID C

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,689

Applicant(s)

DOUBLER ET AL.

Examiner

David C. Reese

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 6-9, 11, 12, 15, 16 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 13, 14, 17 and 19-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

[1] Claims 6-7, 9, 11-12, 15-16, and 18 are withdrawn by applicant from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant's election without traverse of Claims 1-25 in the reply filed on 2/13/2006 is acknowledged. The examiner, in addition, has withdrawn claim 8, as the instant claim refers to a non-elected embodiment due to the following statement: "with at least one tapered surfaced for cooperation with a conjugate tapered surface on said outer gripping surface of said shank member."

Lastly, applicant asserts that Claim 1 is generic. In response, the examiner is persuaded, and therefore, in the instant application, claim 1 appears to be generic.

The requirement is still deemed proper and is therefore made FINAL.

Status of Claims

[2] Claims 1-25 are pending.

Claim Objections

[3] Claim 1 is objected to because of the following informalities: In lines 10-11 it is unclear as to which "said ribbed surfaces" the claim is referring to, that is, the ribbed surfaces of the collet member or the compression ring member. Appropriate correction is required.

[4] Claim 2 objected to because of the following informalities: In the instant claim, the shank member is claimed as having an outer gripping surface, a first end, and a second end. Claim 2, however, is dependent from Claim 1; wherein Claim 1 already claims a shank member having an

Art Unit: 3677

outer surface. Therefore, to fix said informality, Claim 2 could be changed to the following:

...wherein said shank member has a first end and a second end.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

[5] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[6] Claims 1-5, 10, and 17 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Archer, US-590,294, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

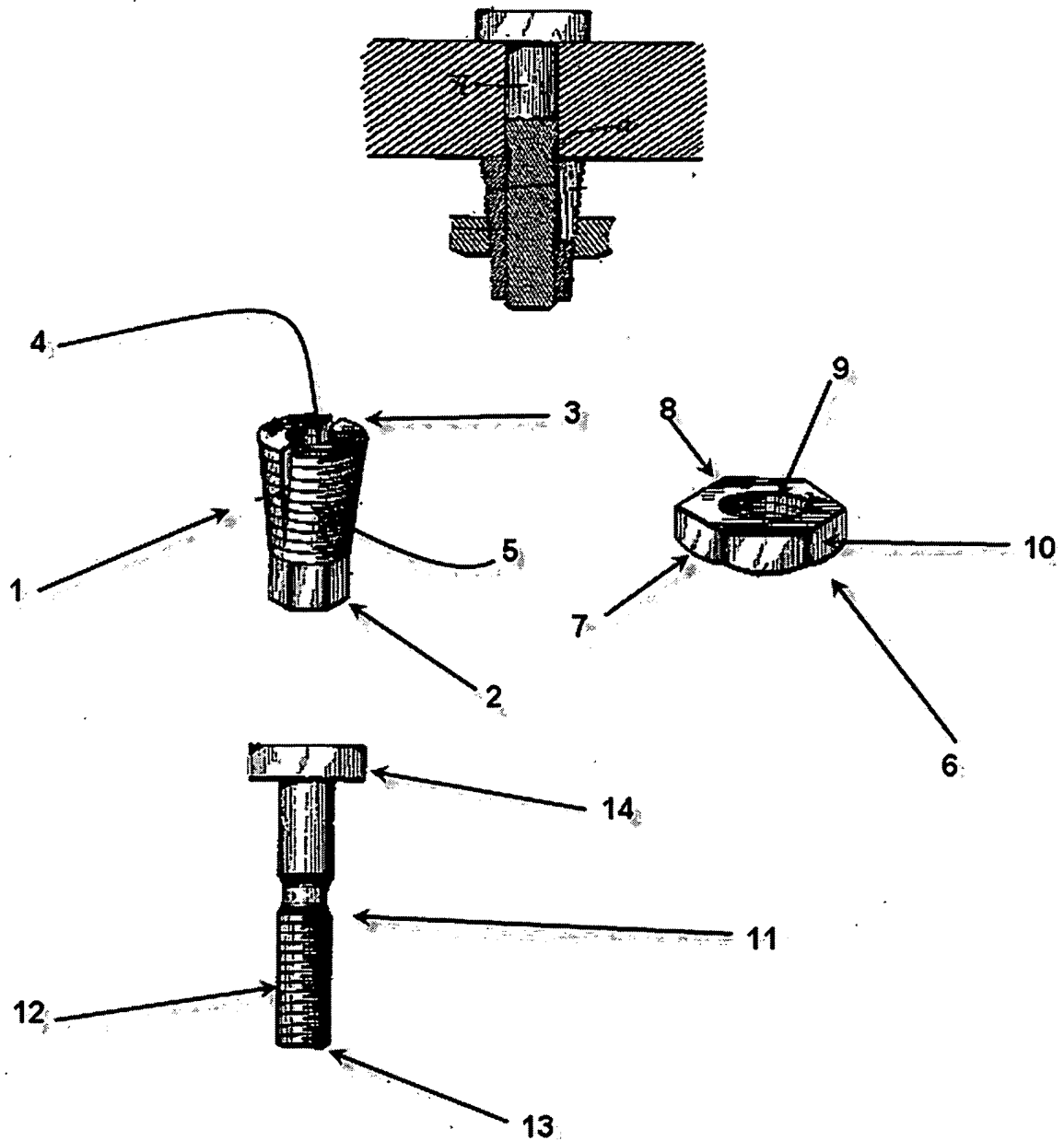
The shape and appearance of Archer is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, Archer discloses a linear fastener system (see figures below) comprising:
a collet member (1) having a base end (2), a top end (3), an inner engaging surface (4),
and an outer ribbed surface (5) positioned about a central axis;

Art Unit: 3677

a compression ring member (6) having a base end (7), a front end (8), an inner ribbed surface (9), and an outer surface (10) positioned about a central axis;

said inner ribbed surface (9) of said compression ring member (6) being constructed and arranged for coaxial alignment and overlapping engagement with respect to said outer ribbed surface (5) of said collet member (1), said compression ring member (6) linearly traversable with respect to said outer ribbed surface (5) of said collet member (1) between a first release position and a second engaged position, wherein said engaged position results in said ribbed surfaces (9) compressing said collet member (1) and tensilely loading said compression ring (6) member to engage a shank member (11) having an outer gripping surface (12), and wherein said release position results in expansion of said collet member (1) thereby releasing said outer gripping surface (12) of said shank member (11).



Re: Claim 2, including a shank member (11) having an outer gripping surface (12), a first end (14), and a second end (13).

Re: Claim 3, wherein said ribbed outer surface (5) of said collet member (1) includes at least one outwardly and circumferentially extending rib (5), each said rib including a first ramp surface to facilitate coaxially aligned linear overlapping movement of said compression ring (6) in relation to said collet member (1) for engagement thereof, and a second ramp surface to facilitate linear removal of said compression ring (6) from said collet member (1).

Re: Claim 4, wherein said inner engaging surface (4) of said collet member (1) is constructed and arranged with a conjugate shape in relation to said outer gripping surface (12) of said shank member (11).

Re: Claim 5, wherein said inner engaging surface (4) of said collet member (1) constructed and arranged with internal threads (4).

Re: Claim 10, wherein said first end (14) of said shank member (11) includes a tensioning means (14), said tensioning means (14) being constructed and arranged to allow said shank member (11) to be tensilely loaded prior to linear traversal of said compression ring member (6) into said engagement position with respect to said collet member (1).

As for Claim 17, wherein said outer ribbed surface (5) of said collet member (1) and said inner ribbed surface (9) of said compression ring member (6) are constructed and arranged to maintain an axially aligned interfitting relationship in said release position (with compression member (6) near the bottom of said collet member, (1).

[7] Claims 1-5, 10, 13, and 17 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Freedland et al., US-6,162,234, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

Art Unit: 3677

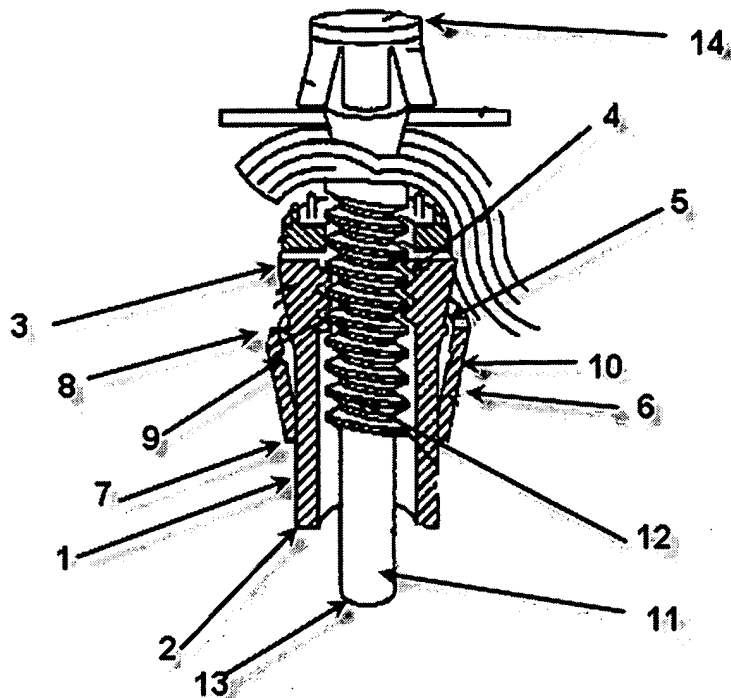
The shape and appearance of Freedland et al. is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, Freedland et al. discloses a linear fastener system (see figure below) comprising:

a collet member (1) having a base end (2), a top end (3), an inner engaging surface (4), and an outer ribbed surface (5) positioned about a central axis;

a compression ring member (6) having a base end (7), a front end (8), an inner ribbed surface (9), and an outer surface (10) positioned about a central axis;

said inner ribbed surface (9) of said compression ring member (6) being constructed and arranged for coaxial alignment and overlapping engagement with respect to said outer ribbed surface (5) of said collet member (1), said compression ring member (6) linearly traversable with respect to said outer ribbed surface (5) of said collet member (1) between a first release position and a second engaged position, wherein said engaged position results in said ribbed surfaces (9) compressing said collet member (1) and tensilely loading said compression ring (6) member to engage a shank member (11) having an outer gripping surface (12), and wherein said release position results in expansion of said collet member (1) thereby releasing said outer gripping surface (12) of said shank member (11).



Re: Claim 2, including a shank member (11) having an outer gripping surface (12), a first end (14), and a second end (13).

Re: Claim 3, wherein said ribbed outer surface (5) of said collet member (1) includes at least one outwardly and circumferentially extending rib (5), each said rib including a first ramp surface to facilitate coaxially aligned linear overlapping movement of said compression ring (6) in relation to said collet member (1) for engagement thereof, and a second ramp surface to facilitate linear removal of said compression ring (6) from said collet member (1).

Re: Claim 4, wherein said inner engaging surface (4) of said collet member (1) is constructed and arranged with a conjugate shape in relation to said outer gripping surface (12) of said shank member (11).

Re: Claim 5, wherein said inner engaging surface (4) of said collet member (1) constructed and arranged with internal threads (4).

Art Unit: 3677

Re: Claim 10, wherein said first end (14) of said shank member (11) includes a tensioning means (111E1 in Fig. 43), said tensioning means (111E1 in Fig. 43) being constructed and arranged to allow said shank member (11) to be tensilely loaded (via 6) prior to linear traversal of said compression ring member (6) into said engagement position with respect to said collet member (1).

Re: Claim 13, wherein said shank member tensioning means (111E1 in Fig. 43) includes at least one internal bore (111E1 in Fig. 43) extending inwardly from said first end of said shank member (14 in view of 111E1 in Fig. 43) along the longitudinal centerline of said shank member (11), wherein said at least one internal bore (111E1 in Fig. 43) is constructed and arranged for gripping and placing a tensile load (via 6) on said shank member (11) prior to linear traversal of said compression ring member (6) into said engagement position with respect to said collet member (1).

Re: Claim 17, wherein said outer ribbed surface (5) of said collet member (1) and said inner ribbed surface (9) of said compression ring member (6) are constructed and arranged to maintain an axially aligned interfitting relationship in said release position (with compression member (6) near the bottom of said collet member, (1).

[8] Claims 1-5, 10, 13-14 and 17 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Weller, US-3,618,135, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

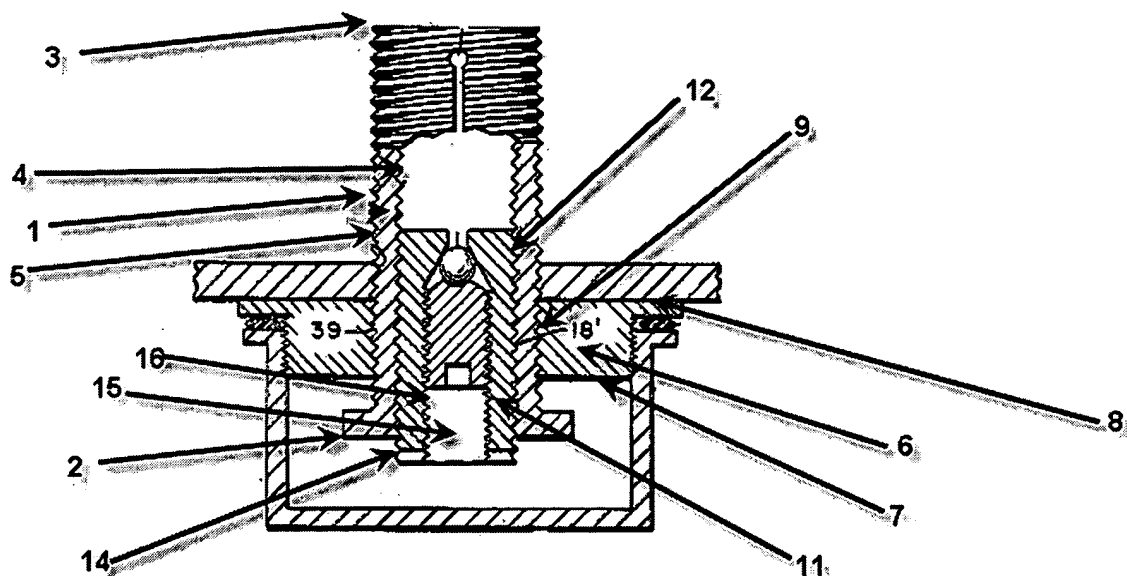
Art Unit: 3677

The shape and appearance of Weller is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, Weller discloses a linear fastener system (see figure below) comprising:
a collet member (1) having a base end (2), a top end (3), an inner engaging surface (4),
and an outer ribbed surface (5) positioned about a central axis;

a compression ring member (6) having a base end (7), a front end (8), an inner ribbed surface (9), and an outer surface (10) positioned about a central axis;

said inner ribbed surface (9) of said compression ring member (6) being constructed and arranged for coaxial alignment and overlapping engagement with respect to said outer ribbed surface (5) of said collet member (1), said compression ring member (6) linearly traversable with respect to said outer ribbed surface (5) of said collet member (1) between a first release position and a second engaged position, wherein said engaged position results in said ribbed surfaces (9) compressing said collet member (1) and tensilely loading said compression ring (6) member to engage a shank member (11) having an outer gripping surface (12), and wherein said release position results in expansion of said collet member (1) thereby releasing said outer gripping surface (12) of said shank member (11).



Re: Claim 2, including a shank member (11) having an outer gripping surface (12), a first end (14), and a second end (13).

Re: Claim 3, wherein said ribbed outer surface (5) of said collet member (1) includes at least one outwardly and circumferentially extending rib (5), each said rib including a first ramp surface to facilitate coaxially aligned linear overlapping movement of said compression ring (6) in relation to said collet member (1) for engagement thereof, and a second ramp surface to facilitate linear removal of said compression ring (6) from said collet member (1).

Re: Claim 4, wherein said inner engaging surface (4) of said collet member (1) is constructed and arranged with a conjugate shape in relation to said outer gripping surface (12) of said shank member (11).

Re: Claim 5, wherein said inner engaging surface (4) of said collet member (1) constructed and arranged with internal threads (4).

Re: Claim 10, wherein said first end (14) of said shank member (11) includes a tensioning means (15-16), said tensioning means (15-16) being constructed and arranged to allow said shank member (11) to be tensilely loaded prior to linear traversal of said compression ring member (6) into said engagement position with respect to said collet member (1).

Re: Claim 13, wherein said shank member tensioning means (15-16) includes at least one internal bore (15) extending inwardly from said first end of said shank member (11) along the longitudinal centerline of said shank member (11), wherein said at least one internal bore (15) is constructed and arranged for gripping and placing a tensile load on said shank member (11) prior to linear traversal of said compression ring member (6) into said engagement position with respect to said collet member (1).

Re: Claim 14, wherein said internal bore (15) includes internal threads (16).

Re: Claim 17, wherein said outer ribbed surface (5) of said collet member (1) and said inner ribbed surface (9) of said compression ring member (6) are constructed and arranged to maintain an axially aligned interfitting relationship in said release position (with compression member (6) near the bottom of said collet member, (1).

Claim Rejections - 35 USC § 103

[9] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[10] Claims 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archer, US-590,294, in view of case law.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

The difference between the claim and Archer is that Archer does not expressly disclose the different materials that may constitute the parts of his device. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to create the device out of plastic (claim 19), copper (claim 20), brass (claim 21), bronze (claim 22), aluminum (claim 23), steel (claim 24), and/or rubber (claim 25), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. It is also common knowledge to choose a material that has sufficient strength, durability, flexibility, hardness, etc. for the application and intended use of that material.

[11] Claims 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freedland et al., US-6,162,234, in view of case law.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to

Art Unit: 3677

a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

The difference between the claim and Freedland et al. is that Freedland et al. does not expressly disclose the different materials that may constitute the parts of his device. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to create the device out of plastic (claim 19), copper (claim 20), brass (claim 21), bronze (claim 22), aluminum (claim 23), steel (claim 24), and/or rubber (claim 25), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. It is also common knowledge to choose a material that has sufficient strength, durability, flexibility, hardness, etc. for the application and intended use of that material.

[12] Claims 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weller, US-3,618,135, in view of case law.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

The difference between the claim and Weller is that Weller does not expressly disclose the different materials that may constitute the parts of his device. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to create the device out of plastic (claim 19), copper (claim 20), brass (claim 21), bronze (claim 22), aluminum (claim

Art Unit: 3677

23), steel (claim 24), and/or rubber (claim 25), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. It is also common knowledge to choose a material that has sufficient strength, durability, flexibility, hardness, etc. for the application and intended use of that material

Conclusion

[13] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of fastener; as well as their extreme relevance to the current application as many read extensively onto the claimed invention: please see submitted notice of reference cited.


[14] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Reese
Assistant Examiner
Art Unit 3677

DCR


4/10/06
ROBERT J. SANDY
PRIMARY EXAMINER